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March 9, 2018

**VIA CERTIFIED MAIL**

Peter Pouwels, Division Manager  
Republic Services of Sonoma County, Inc.  
500 Mecham Road  
Petaluma, CA 94952

Achaya Kelapanda, Legally Responsible Person  
Guerneville Transfer Station  
13450 Pocket Drive  
Guerneville, CA 95446

CT Corporation System, Agent for Service  
of Process  
818 West Seventh Street, Suite 930  
Los Angeles, CA 90017

Nathan Cabbil, Chief Executive Officer  
Republic Services of Sonoma County, Inc.  
18500 North Allied Way  
Phoenix, AZ 85054

Patrick Carter, Executive Director  
Sonoma County Waste Management Agency  
2300 County Center Drive, Suite B-100  
Santa Rosa, CA 95403

**Re: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE  
FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")  
(33 U.S.C. §§ 1251 *et seq.*)**

Dear Peter Pouwels, Achaya Kelapanda, Nathan Cabbil, and Patrick Carter:

This firm represents California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at Republic Services of Sonoma County's ("RSSC") Guerneville Transfer Station located at 13450 Pocket Drive, in Guerneville, California (the "Facility"). This letter is being sent to you as the responsible owners, officers and/or operators of the Facility, or as the registered agent for this entity. Unless otherwise noted, Republic Services of Sonoma County, Guerneville Transfer Station, Peter Pouwels, Achaya Kelapanda, Nathan Cabbil, and Patrick Carter shall hereinafter be collectively referred to as "RSSC." The purpose of this letter is to provide RSSC with notice of the violations of the Industrial General Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water associated with industrial activities from the Facility into local surface waters.

RSSC is in ongoing violation of the substantive and procedural requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001 State Water Resources Control Board Water

Quality Order No. 14-57-DWQ (“General Permit” or “Permit”).<sup>1</sup> Prior to July 1, 2015, RSSC’s storm water discharges were regulated under Water Quality Order No. 91-13-DWQ, as amended by Water Quality Orders 92-12-DWQ and 97-03-DWQ.

On July 1, 2015, the 2015 General Permit went into effect, superseding the 1997 General Permit that was operative between 1997 and June 30, 2015. The 2015 General Permit includes many of the same fundamental requirements and implements many of the same statutory requirements as the 1997 General Permit. Violation of both the 1997 and 2015 General Permit provisions is enforceable under the law. 2015 General Permit, Finding A.6.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects RSSC to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations occurring after January 12, 2009, and \$51,570 per day per violation for all violations that occurred after November 2, 2015.

In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees, including attorneys’ fees.

The Clean Water Act requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. *See* 40 C.F.R. § 135.2.

As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facility. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, CSPA intends to file suit under Section 505(a) of the Act in federal court against RSSC for violations of the Clean Water Act and the Permit.

## **I. Background**

### **A. California Sportfishing Protection Alliance**

CSPA is a non-profit corporation dedicated to the preservation, protection and defense of the environment, wildlife and natural resources of California waters, including the waters into which RSSC discharges polluted storm water. Members of CSPA enjoy the waters that the

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<sup>1</sup> RSSC submitted a Notice of Intent (NOI) to comply with the General Permit for the Guerneville Facility on or about June 30, 2015. The Facility’s Waste Discharge Identification number is 1 49I025380.

Facility discharges into, including the Russian River. Members of CSPA use and enjoy these waters for their fishing, estuarine habitat and the rare, threatened and endangered species it supports, the wildlife habitat, marine habitat, and other designated beneficial uses. The discharge of pollutants from the Facility impairs each of these uses. Discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by RSSC's failure to comply with the Clean Water Act and the General Permit.

## **B. The Clean Water Act**

Congress enacted the CWA in 1972 in order to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251. The Act prohibits the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco Baykeeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Env'tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act's permitting scheme). The discharge of pollutants without an NPDES permit, or in violation of a permit, is illegal. *Ecological Rights Found. v. Pacific Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California's intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through individual permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of EPA has authorized California's State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342.

## **C. California's General Permit for Storm Water Discharges Associated with Industrial Activities**

Between 1997 and June 30, 2015, the General Permit in effect was Order No. 97-03-DWQ, which CSPA refers to herein as the "1997 General Permit." On April 1, 2014, pursuant to Order No. 2014-0057-DWQ the General Permit was reissued, including many of the same fundamental terms as the prior permit. This permit became effective July 1, 2015. For purposes of this notice letter, CSPA refers to the reissued permit as the "2015 General Permit." Accordingly, RSSC is liable for violations of the 1997 General Permit and ongoing violations of the 2015 General Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor

allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) (“Limitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect”).

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply (“NOI”). 1997 General Permit, Provision E.1; 2015 General Permit, Standard Condition XXI.A. Facilities must file their NOIs before the initiation of industrial operations. *Id.*

Facilities must strictly comply with all of the terms and conditions of the General Permit. A violation of the General Permit is a violation of the CWA.

The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, effluent limitations, and receiving water limitations; (2) Storm Water Pollution Prevention Plan (“SWPPP”) requirements; and (3) self-monitoring and reporting requirements.

#### **D. RSSC’s Guerneville Facility**

Information available to CSPA indicates that RSSC’s industrial activities at the approximately 3-acre Facility include, but are not limited to: public and commercial solid waste drop off and recycling. The industrial activities at the Facility fall under Standard Industrial Classification (“SIC”) Code 5093 (“Scrap and Waste Materials”).

RSSC collects and discharges storm water associated with industrial activities at the Facility through at least two (2) discharge points into an unnamed tributary to the Russian River. The unnamed tributary to the Russian River and the Russian River are waters of the United States within the meaning of the Clean Water Act.

The areas of industrial activity at the Facility are sources of pollutants. The General Permit requires RSSC to analyze storm water samples for TSS, pH, and Oil and Grease. 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. Facilities under SIC Code 5093 must also analyze storm water samples for Iron (“Fe”), Lead (“Pb”), Aluminum (“Al”), Zinc (“Zn”) and Chemical Oxygen Demand (“COD”). 1997 General Permit, Tables 1-2; 2015 General Permit, Tables 1-2.

## **II. RSSC’s Violations of the Act and Permit**

Based on its review of available public documents, CSPA is informed and believes that RSSC is in ongoing violation of both the substantive and procedural requirements of the CWA and the General Permit. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the



federal Clean Water Act, RSSC is subject to penalties for violations of the Act since March 9, 2013.

**A. RSSC Discharges Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations**

RSSC's storm water sampling results provide conclusive evidence of RSSC's failure to comply with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

**1. Discharge Prohibitions**

The General Permit prohibits all discharges of storm water associated with industrial activities to waters of the United States except as specifically authorized by the General Permit or another NPDES permit. 2015 General Permit, Section III.A. The General Permit further prohibits the discharge of liquids or materials other than storm water to waters of the United States unless authorized by another NPDES permit. 2015 General Permit, Section III.B.

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. 1997 General Permit, Discharge Prohibition A.2; 2015 General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board's Basin Plan or statewide water quality control plans and policies. 1997 General Permit, Receiving Water Limitation C.2; 2015 General Permit, Discharge Prohibition III.D.

**2. Technology Based Effluent Limitations**

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable ("BAT") for toxic and nonconventional pollutants and best conventional pollutant control technology ("BCT") for conventional pollutants. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. Conventional pollutants include Total Suspended Solids, Oil & Grease, pH, Biochemical Oxygen Demand and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA ("EPA benchmarks") serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals*, 619 F. Supp. 2d 914, 920, 923 (C.D. Cal 2009); 1997 General Permit, Effluent Limitations B.5-6; 2015 General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by RSSC: Total Suspended Solids – 100 mg/L; Oil & Grease – 15.0 mg/L; Iron – 1.0 mg/L; Aluminum – 0.75 mg/L; Zinc – 0.26 mg/L; Lead – 0.262 mg/L; Chemical Oxygen Demand – 120 mg/L; and, pH – 6.0-9.0 s.u.

### **3. Receiving Water Limitations**

Storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. 1997 General Permit, Receiving Water Limitations C.1, C.2; 2015 General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit's Receiving Water Limitations. 1997 General Permit, p. VII; 2015 General Permit, Special Condition XX.B. The documentation must describe changes the discharger will make to its current storm water best management practices ("BMPs") in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. *Id.*

The *Water Quality Control Plan for the North Coast Region* (Revised May 2011) ("Basin Plan") also sets forth water quality standards and prohibitions applicable to RSSC's storm water discharges. The Basin Plan identifies present and potential beneficial uses for the Russian River, which include municipal and domestic water supply, hydropower generation, agricultural supply, industrial service supply, navigation, wildlife habitat, warm freshwater habitat, cold freshwater habitat, warm and cold spawning, and contact and non-contact water recreation.

According to the Clean Water Act Section 303(d) 2014/2016 Integrated Report of Impaired Water Bodies issued by the State and Regional Water Boards, the Russian River downstream of the Facility, between Fife Creek and Dutch Bill Creek, is impaired for: aluminum, indicator bacteria, sedimentation and siltation, specific conductivity, and temperature.<sup>2</sup> Polluted discharges from RSSC's Facility cause or contribute to these exceedances of water quality standards.

### **4. RSSC's Storm Water Sample Results**

The following discharges of pollutants from the Facility have violated the discharge prohibitions, effluent limitations, and receiving water limitations of the Permit:

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<sup>2</sup> 2014 and 2016 Integrated Report – All Assessed Waters, *available at* [https://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2014\\_2016.shtml](https://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2014_2016.shtml) (last accessed March 9, 2018).

**a. Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)	303(d) Impairment Guideline <sup>3</sup>
1/18/2018	SW-1	TSS	490	100	25 NTU
1/18/2018	SW-2	TSS	1600	100	25 NTU
1/8/2018	SW-1	TSS	400	100	25 NTU
2/16/2017	SW-1m <sup>4</sup>	TSS	170	100	25 NTU
3/5/2016	SW-1	TSS	330	100	25 NTU
1/29/2016	SW-1m	TSS	180	100	25 NTU
1/29/2016	SW-2	TSS	140	100	25 NTU
12/3/2015	SW-1m	TSS	970	100	25 NTU
11/9/2015	SW-1m	TSS	270	100	25 NTU

**b. Discharge of Storm Water Containing Zinc (Zn) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
1/18/2018	SW-1	Zn	0.85	0.26
1/18/2018	SW-2	Zn	1.8	0.26
1/8/2018	SW-2	Zn	0.35	0.26
3/5/2016	SW-1	Zn	0.61	0.26
1/29/2016	SW-1m	Zn	0.48	0.26
12/3/2015	SW-1m	Zn	1	0.26
11/9/2015	SW-1m	Zn	0.51	0.26

<sup>3</sup> The evaluation guideline that has been used to determine turbidity exceedance is from published-peer reviewed paper, *The Effects of Chronic Turbidity on Density and Growth of Steelheads and Coho Salmon*, John W Sigler (1984). The guideline is "[i]n our studies, as little as 25 NTUs of turbidity caused a reduction in fish growth." *Id.* While RSSC's storm water data monitors sediment using TSS, which is measured in mg/L, CSPA alleges that the listed discharges cause or contribute to the Russian River's sediment/siltation impairment.

<sup>4</sup> According to RSSC's ERA Level 1 Technical Report, "SW-1m is located at the base of the rocky swale at the inlet to the culvert" and "SW-1 is located at the field drain at the end of the concrete surface ditch just before drainage enters the rocky swale."



**c. Discharge of Storm Water Containing Iron (Fe) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
1/18/18	SW-1	Fe	20	1.0
1/18/18	SW-2	Fe	54	1.0
1/8/18	SW-1	Fe	1.8	1.0
1/8/18	SW-2	Fe	11	1.0
2/16/2017	SW-1m	Fe	6.1	1.0
2/16/2017	SW-2	Fe	2.5	1.0
2/2/2017	SW-1m	Fe	3.7	1.0
2/2/2017	SW-2	Fe	1.7	1.0
11/22/2016	SW-1m	Fe	1.3	1.0
11/22/2016	SW-2	Fe	1.4	1.0
11/19/2016	SW-1m	Fe	1.1	1.0
11/19/2016	SW-2	Fe	1.1	1.0
3/5/2016	SW-1	Fe	9.2	1.0
3/5/2016	SW-2	Fe	2.4	1.0
1/29/2016	SW-1m	Fe	9.6	1.0
1/29/2016	SW-2	Fe	5.2	1.0
12/24/2015	SW-2	Fe	1.2	1.0
12/3/2015	SW-1m	Fe	17	1.0
11/9/2015	SW-1m	Fe	12	1.0

**d. Discharge of Storm Water Containing Aluminum (Al) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)	N. Coast Basin Plan Water Quality Objective (mg/L)
1/18/18	SW-1	Al	12	0.75	1.0
1/18/18	SW-2	Al	28	0.75	1.0
1/8/18	SW-1	Al	0.82	0.75	1.0
1/8/18	SW-2	Al	1.9	0.75	1.0
2/16/2017	SW-1m	Al	4.2	0.75	1.0
2/16/2017	SW-2	Al	2.3	0.75	1.0
2/2/2017	SW-1m	Al	2.7	0.75	1.0
2/2/2017	SW-2	Al	1.5	0.75	1.0
11/22/2016	SW-1m	Al	0.97	0.75	1.0
11/22/2016	SW-2	Al	1	0.75	1.0



11/19/2016	SW-1m	Al	0.79	0.75	1.0
11/19/2016	SW-2	Al	1.5	0.75	1.0
3/5/2016	SW-1	Al	5.5	0.75	1.0
3/5/2016	SW-2	Al	1.9	0.75	1.0
1/29/2016	SW-1m	Al	6.7	0.75	1.0
1/29/2016	SW-2	Al	6.6	0.75	1.0
12/3/2015	SW-1m	Al	15	0.75	1.0
11/9/2015	SW-1m	Al	5.8	0.75	1.0

**e. Discharge of Storm Water Containing Chemical Oxygen Demand (COD) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
1/18/2018	SW-1	COD	430	120
1/18/2018	SW-2	COD	920	120
1/8/2018	SW-2	COD	210	120
3/5/2016	SW-1	COD	330	120
1/29/2016	SW-1m	COD	250	120
12/3/2015	SW-1m	COD	590	120

**f. RSSC's Sample Results Are Evidence of Violations of the General Permit**

RSSC's sample results demonstrate violations of the General Permit's discharge prohibitions, technology based effluent limitations, and receiving water limitations set forth above. CSPA is informed and believes that RSSC has known that its storm water contains pollutants at levels exceeding General Permit standards since at least March 9, 2013.

CSPA alleges that such violations occur each time storm water discharges from the Facility. Attachment A hereto, sets forth the specific rain dates on which CSPA alleges that RSSC has discharged storm water containing impermissible levels of TSS, Fe, Al, COD, and Zn in violation of the General Permit. 1997 General Permit, Discharge Prohibition A.2, Receiving Water Limitations C.1 and C.2; 2015 General Permit, Discharge Prohibitions III.C and III.D, Receiving Water Limitations VI.A, VI.B. RSSC may have had other violations that can only be fully identified and documented once discovery and investigation have been completed. Hence, to the extent possible, CSPA includes such violations in this Notice and reserves the right to amend this Notice, if necessary, to include such further violations in future legal proceedings.

**5. RSSC Has Failed to Implement BAT and BCT**

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water

discharges. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. *See* 1997 General Permit, Sections A.8.a-b; 2015 General Permit, Sections X.H.1-2.

RSSC has failed to implement the minimum BMPs required by the General Permit, including: good housekeeping requirements; preventive maintenance requirements; spill and leak prevention and response requirements; material handling and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. Permit, Section X.H.1(a-g).

RSSC has further failed to implement advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. 1997 General Permit, Section A.8.b; 2015 General Permit, Sections X.H.2.

Each day that RSSC has failed to develop and implement BAT and BCT at the Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). RSSC has been in violation of the BAT and BCT requirements at the Facility every day since at least March 9, 2013.

#### **6. RSSC Has Failed to Implement an Adequate Monitoring Implementation Plan**

The General Permit requires dischargers to implement a Monitoring Implementation Plan. 2015 General Permit, Section X.I. As part of their monitoring plan, dischargers must identify all storm water discharge locations. 2015 General Permit, Section X.I.2.a. Dischargers must then conduct monthly visual observations of each drainage area, as well as visual observations during discharge sampling events. 2015 General Permit, Section XI.A.1 and 2.

Dischargers must collect and analyze storm water samples from two (2) storm events within the first half of each reporting year (July 1 to December 31) and two (2) storm events during the second half of each reporting year (January 1 to June 3). 2015 General Permit, Section XI.B. Section XI.B requires dischargers to sample and analyze during the wet season for basic parameters such as pH, total suspended solids ("TSS") and oil and grease ("O&G"), certain industry-specific parameters set forth in Table 2 of the General Permit, and other pollutants likely to be in the storm water discharged from the facility based on the pollutant source assessment. 2015 General Permit, Section XI.B.6. Dischargers must submit all sampling and analytical results via SMARTS within thirty (30) days of obtaining all results for each sampling event. 2015 General Permit Section XI.B.11.

RSSC has failed to develop and implement an adequate Monitoring Implementation Plan. These failures include: using analytical test methods with method detection limits higher than

existing approved analytical test methods to analyze samples of storm water for chemical oxygen demand and aluminum, and failing to collect samples from all discharge points during each sampling event. In addition, RSSC's Monitoring Implementation Plan is inadequate for failing to identify the location of the Facility's second storm water discharge location, namely the location associated with "SW-2," referenced above.

Each day that RSSC has failed to develop and implement an adequate Monitoring Implementation Plan is a separate and distinct violation of the Act and Permit. RSSC has been in violation of the Monitoring Implementation Plan requirements every day since at least March 9, 2013.

**7. RSSC Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan**

The General Permit requires dischargers to develop and implement a site-specific SWPPP. 1997 General Permit, Section A.1; 2015 General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9) annual comprehensive facility compliance evaluation; and (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board's Storm Water Multiple Application and Report Tracking System ("SMARTS") their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. 2015 General Permit, Section X.B; see also 1997 General permit, Section A.

CSPA's investigation indicates that RSSC has been operating with an inadequately developed or implemented SWPPP in violation of General Permit requirements. RSSC's site map is wholly inadequate. For example, the site map fails to identify the locations of storm water collection and conveyance systems, their associated discharge locations, and the direction of flow. RSSC has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary, resulting in the Facility's numerous effluent limitation violations.

Each day RSSC failed to develop and implement an adequate SWPPP is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. RSSC has been in violation of these requirements at the Facility every day since at least March 9, 2013.



### **8. RSSC Has Failed to File Timely, True and Correct Reports**

Section XVI of the 2015 General Permit requires dischargers to submit an Annual Report by July 15th of each reporting year to the Regional Board. The Annual Report must be signed and certified by a discharger's Legally Responsible Person, or Duly Authorized Representative. 2015 General Permit, Sections XVI.A, XXI.K. The Annual Report must include a compliance checklist, certifying compliance with the General Permit and an explanation of any non-compliance. 2015 General Permit, Section XVI.B.

CSPA's investigations indicate that RSSC has submitted incomplete Annual Reports and purported to comply with the Permit despite significant noncompliance at the Facility.

### **III. Persons Responsible for the Violations**

CSPA puts RSSC on notice that they are the persons and entities responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts RSSC on formal notice that it intends to include those persons in this action.

### **IV. Name and Address of Noticing Parties**

The name, address and telephone number of each of the noticing parties is as follows:

Bill Jennings, Executive Director  
California Sportfishing Protection Alliance  
3536 Rainer Avenue  
Stockton, CA 95204  
(209) 464-5067

### **V. Counsel**

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

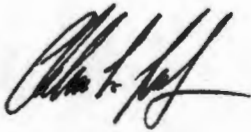
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**VI. Conclusion**

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against RSSC and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



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Andrew L. Packard  
Law Offices of Andrew L. Packard  
Counsel for CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE

**SERVICE LIST**

**VIA CERTIFIED MAIL**

Scott Pruitt, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Alexis Strauss, Acting Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

Jeff Sessions, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Eileen Sobeck, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Matthias St. John, Executive Officer  
North Coast Regional Water Quality Control Board  
5550 Skylane Boulevard Suite A  
Santa Rosa, CA 95403



**ATTACHMENT A**  
**Notice of Intent to File Suit, RSSC**  
**Significant Rain Events,\* March 9, 2013 – March 9, 2018**

March 20, 2013	March 27, 2014	December 16, 2014	December 10, 2015
March 21, 2013	March 28, 2014	December 17, 2014	December 11, 2015
March 29, 2013	March 29, 2014	December 18, 2014	December 12, 2015
March 31, 2013	March 30, 2014	December 19, 2014	December 13, 2015
April 1, 2013	April 1, 2014	December 20, 2014	December 14, 2015
April 4, 2013	April 2, 2014	December 21, 2014	December 19, 2015
April 5, 2013	April 4, 2014	December 25, 2014	December 21, 2015
April 6, 2013	April 5, 2014	January 17, 2015	December 22, 2015
April 8, 2013	April 25, 2014	February 6, 2015	December 23, 2015
May 28, 2013	April 26, 2014	February 7, 2015	December 24, 2015
June 10, 2013	April 27, 2014	February 8, 2015	December 25, 2015
June 25, 2013	September 18, 2014	February 9, 2015	December 30, 2015
June 26, 2013	September 19, 2014	March 1, 2015	December 31, 2015
July 16, 2013	September 25, 2014	March 11, 2015	January 4, 2016
September 21, 2013	September 27, 2014	March 22, 2015	January 5, 2016
September 30, 2013	October 15, 2014	March 23, 2015	January 6, 2016
October 1, 2013	October 20, 2014	April 6, 2015	January 7, 2016
November 19, 2013	October 21, 2014	April 7, 2015	January 8, 2016
November 20, 2013	October 25, 2014	April 8, 2015	January 9, 2016
November 21, 2013	October 26, 2014	April 25, 2015	January 10, 2016
December 7, 2013	November 1, 2014	May 15, 2015	January 11, 2016
January 11, 2014	November 13, 2014	June 2, 2015	January 13, 2016
January 12, 2014	November 19, 2014	June 10, 2015	January 14, 2016
February 2, 2014	November 20, 2014	July 3, 2015	January 15, 2016
February 3, 2014	November 21, 2014	July 10, 2015	January 16, 2016
February 6, 2014	November 22, 2014	July 11, 2015	January 17, 2016
February 7, 2014	November 24, 2014	August 29, 2015	January 18, 2016
February 8, 2014	November 29, 2014	September 16, 2015	January 19, 2016
February 9, 2014	November 30, 2014	September 17, 2015	January 20, 2016
February 10, 2014	December 1, 2014	October 18, 2015	January 22, 2016
February 16, 2014	December 2, 2014	October 28, 2015	January 23, 2016
February 26, 2014	December 3, 2014	November 2, 2015	January 24, 2016
February 27, 2014	December 4, 2014	November 9, 2015	January 25, 2016
February 28, 2014	December 5, 2014	November 10, 2015	January 26, 2016
March 1, 2014	December 6, 2014	November 15, 2015	January 29, 2016
March 2, 2014	December 9, 2014	November 25, 2015	January 30, 2016
March 3, 2014	December 10, 2014	December 1, 2015	February 4, 2016
March 6, 2014	December 11, 2014	December 4, 2015	February 18, 2016
March 7, 2014	December 12, 2014	December 6, 2015	February 19, 2016
March 10, 2014	December 13, 2014	December 7, 2015	February 20, 2016
March 26, 2014	December 15, 2014	December 9, 2015	February 27, 2016

\* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

**ATTACHMENT A**  
**Notice of Intent to File Suit, RSSC**  
**Significant Rain Events,\* March 9, 2013 – March 9, 2018**

February 28, 2016	November 20, 2016	February 9, 2017	November 10, 2017
March 3, 2016	November 21, 2016	February 10, 2017	November 13, 2017
March 4, 2016	November 23, 2016	February 11, 2017	November 15, 2017
March 5, 2016	November 26, 2016	February 16, 2017	November 16, 2017
March 6, 2016	November 27, 2016	February 17, 2017	November 17, 2017
March 7, 2016	November 28, 2016	February 18, 2017	November 20, 2017
March 8, 2016	November 30, 2016	February 19, 2017	November 21, 2017
March 9, 2016	December 8, 2016	February 20, 2017	November 26, 2017
March 10, 2016	December 9, 2016	February 21, 2017	November 27, 2017
March 11, 2016	December 10, 2016	February 22, 2017	December 20, 2017
March 12, 2016	December 14, 2016	February 23, 2017	January 4, 2018
March 13, 2016	December 15, 2016	March 5, 2017	January 5, 2018
March 14, 2016	December 16, 2016	March 6, 2017	January 6, 2018
March 15, 2016	December 23, 2016	March 7, 2017	January 8, 2018
March 20, 2016	December 24, 2016	March 21, 2017	January 9, 2018
March 21, 2016	January 2, 2017	March 22, 2017	January 16, 2018
March 22, 2016	January 3, 2017	March 23, 2017	January 18, 2018
April 9, 2016	January 4, 2017	March 24, 2017	January 19, 2018
April 10, 2016	January 5, 2017	March 25, 2017	January 22, 2018
April 14, 2016	January 7, 2017	March 27, 2017	January 25, 2018
April 22, 2016	January 8, 2017	April 6, 2017	January 26, 2018
April 23, 2016	January 9, 2017	April 7, 2017	February 26, 2018
May 7, 2016	January 10, 2017	April 8, 2017	March 1, 2018
May 8, 2016	January 11, 2017	April 9, 2017	March 2, 2018
June 17, 2016	January 12, 2017	April 10, 2017	March 3, 2018
June 18, 2016	January 13, 2017	April 11, 2017	March 4, 2018
August 23, 2016	January 14, 2017	April 12, 2017	
October 4, 2016	January 18, 2017	April 13, 2017	
October 14, 2016	January 19, 2017	April 14, 2017	
October 15, 2016	January 20, 2017	April 17, 2017	
October 16, 2016	January 21, 2017	April 18, 2017	
October 17, 2016	January 22, 2017	April 20, 2017	
October 25, 2016	January 23, 2017	April 25, 2017	
October 26, 2016	January 24, 2017	June 8, 2017	
October 28, 2016	February 2, 2017	June 9, 2017	
October 29, 2016	February 3, 2017	September 8, 2017	
October 30, 2016	February 4, 2017	September 13, 2017	
October 31, 2016	February 5, 2017	October 20, 2017	
November 1, 2016	February 6, 2017	November 3, 2017	
November 6, 2016	February 7, 2017	November 4, 2017	
November 19, 2016	February 8, 2017	November 9, 2017	

\* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.